IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.718 OF 2002

Bharat Hoseiry Mills .. Plaintiff

versus

M/s Anupam Textiles Dealers .. Defendants

...

Mr. T.M.Nadar for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 9th March 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendants. As per the office report dated 7th March, 2004 the defendant has been duly served on 30th March, 2002. Despite service the defendant has not filed an appearance. The plaintiff is therefore entitled to a decree under order 37 Rule 2 (3) of the Code of Civil Procedure.

2. Learned counsel for the plaintiff hands in the documents along with a list. The documents are taken

on record and collectively marked Exhibit A for identification. I have perused the plaint and the documents filed on record. The plaintiff sold, supplied and delivered to the defendants goods under three invoices. Office copies of the three invoices are produced on record. The defendants made some part payment as shown in Exhibit H to the plaint. However, failed and neglected to pay the balance. The plaintiff has therefore filed this suit for recovery of the balance money. As the defendants has not filed any appearance, averments made in the plaint are deemed to be admitted. The plaintiff is entitled to a decree under order 37 Rule 2 (3) of the Code of Civil Procedure. Hence, suit of the plaintiff is decreed as follows:

> " The defendants shall pay to the plaintiff a sum of Rs.1,09,808.32 together with interest thereon at 9 % p.a. from the date of the suit till payment and all costs of the suit. Issue court fee refund as per rules."

D.G.KARNIK, J